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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,454	11/06/2001	Sven Ake Sjostam	MISI 8116US	7525
1688	7590	10/12/2006	EXAMINER	
POLSTER, LIEDER, WOODRUFF & LUCCHESI 12412 POWERSCOURT DRIVE SUITE 200 ST. LOUIS, MO 63131-3615			MATHEW, FENN C	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,454

Applicant(s)

SJOSTAM, SVEN AKE

Examiner

Fenn C. Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-8 and 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to the appeal brief filed 06/12/2006. Applicant's argument are persuasive. A new grounds of rejection follows.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 17-18 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 17 and 18 recites the limitation "the frame". It is unclear from the claims whether the frame is composed of the side members and cross members respectively claimed in claim 14, or whether Applicant is attempting to claim a separate frame. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 2, 6, and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Froesch (U.S. 1,731,412). Referring to claim 2, Froesch discloses a device comprising a 'play unit' (f) adapted to be climbed on, at least one ground engaging post (c) to which the play unit is mounted, a connector (d) for mounting the play unit to the

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post, the play unit including a mounting shaft (g), the connector comprising a rubber bushing (d) which surrounds the play unit mounting shaft, the connector enabling the play unit to move with a limited dampened swinging movement around an imaginary axis between opposite ends of the play unit. Referring to claim 6, Froesch teaches an outer shell (c1), the bushing being contained within the shell. Referring to claim 12, as broadly claimed, Froesch teaches portions of the connector mounted within the post (bushing). Referring to claim 13, Froesch teaches portions of the connector mounted to the outside of the post (d2).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-5, 7, 14-19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froesch in view of Clark (U.S. 5,470,038). Referring to claims 3-5, Froesch teaches the claimed structural limitations except for the specific shape of the 'play unit'. Specific shapes chosen are considered a matter of obvious choice, as the skilled artisan could choose a variety of different configurations as evidenced by Clark. Note that Clark teaches an approximately ovoid shape with members parallel to the short axis. It would have been obvious to one of ordinary skill in the art to provide Froesch with the 'play unit' of Clark based on suitability for intended use. Absent

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criticality or unexpected results, various configurations of 'play units' would have been well within the knowledge of the skilled artisan.

With respect to claims 14, and 17-19, the limitations are substantially similar in scope to the claims addressed above. Note the rejections based on Froesch and Clark. With respect to claims 15-16, Froesch as modified by Clark teaches the 'play unit' comprising a bridge or ladder. (Note absent further limitation, the 'play unit' of Clark may be construed as a bridge or ladder).

With respect to claims 8 and 21, the prior art teaches the claimed invention except for discrete bushing elements. The use of multiple bushing elements adjacent one another is notoriously old and well known in the art (as an example Engstrom U.S. 3,656,805 teaches multiple bushings).

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Froesch in view of Tornero (U.S. 4,720,068). Froesch teaches the claimed invention except for the connector including an inner tube received within the bushing. Tornero discloses in an analogous device, the desirability of providing an inner tube received within a bushing (35), the inner tube receiving the mounting shaft of a play unit. In view of the teachings of Tornero it would have been obvious to one of ordinary skill in the art at the time of invention to provide Froesch with an inner tube received within the bushing, the inner tube receiving the mounting shaft of the play unit in order to prevent direct contact between the bushing and mounting shaft.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Froesch in view of Clark as applied to claim 19 above, and further in view of Tornero. Froesch

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teaches the claimed invention except for the connector including an inner tube received within the bushing. Tornero discloses in an analogous device, the desirability of providing an inner tube received within a bushing (35), the inner tube receiving the mounting shaft of a play unit. In view of the teachings of Tornero it would have been obvious to one of ordinary skill in the art at the time of invention to provide Froesch with an inner tube received within the bushing, the inner tube receiving the mounting shaft of the play unit in order to prevent direct contact between the bushing and mounting shaft.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Examiner respectfully points out that the preamble term "playground assembly" or "play/exercise equipment" does not preclude the art applied. The term "play unit" is descriptive in nature, and also does not preclude the art applied. Applicant's claims amount to a shaft engaging another shaft with a rubber bushing, and an element atop the first shaft. On that basis, there is no limit to the scope of the claim. Applicant is respectfully reminded that claims are read in the broadest reasonable light, and that limitations in the specification are not read into the claims themselves.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'F. Mathew', with a stylized flourish extending to the right.

Fenn C. Mathew
October 2, 2006